

Victor Bronshtein
5008 Almondwood Way
San Diego, CA 92130

August 1, 2005

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In reply to: Decision on Renewed Petition Under 37 C.F.R. §1.137(b)

Application No. 09/254,563

Filed: March 5, 1999

Attorney Docket Number. UPTINC.015A

Title: SHELF PRESERVATION OF CELLS, TISSUES, ORGANS AND ORGANISMS
BY VITRIFICATION

Mail Stop Petitions
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Mr. Shanoski or Whom it May Concern in the Office of Petitions:

I received your letter mailed July 27, 2005 regarding my petition to renew my abandoned patent application (09/254,563). I hope that this time the amount of money I have to pay is accurate.

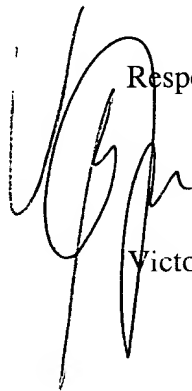
I have included a check for \$65 with this letter to complete my petition. Please contact me if you have any questions or remaining requirements for completion of this petition at (858) 245-9323

Adjustment date: 08/09/2005 AKELLEY
05/11/2005 SLUANG1 00000003 09254563
01 FC:1999 -15.00 OP

Adjustment date: 08/09/2005 AKELLEY
10/13/2004 HAL111 00000032 09254563
01 FC:1999 -670.00 OP

08/09/2005 AKELLEY 00000031 09254563
01 FC:2453 750.00 OP

Respectfully yours,



Victor Bronshtein

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Paper No. None

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5008 Almondwood Way
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JUL 27 2005

OFFICE OF PETITIONS

In re Application of
Victor Bronshtein
Application No. 09/254,563
Filed: March 5, 1999
Attorney Docket Number: UPTINC.015A
Title: SHELF PRESERVATION OF CELLS,
TISSUES, ORGANS AND ORGANISMS BY
VITRIFICATION

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the renewed petition filed May 9, 2005, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 9, 2002, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 10, 2002. A Notice of Abandonment was mailed November 18, 2002.

The original petition was submitted on October 12, 2004, and was dismissed via the mailing of a decision on April 21, 2005, which indicated that Petitioner has not submitted the petition fee in full (Petitioner has submitted \$670 when \$750 was due).

With this renewed petition, Petitioner has submitted an additional \$15.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. § 1.17(m) as being \$1500 for a large entity and \$750 for a small entity. Petitioner included \$670 with the original petition, and an additional \$15 with this renewed petition. As such, an additional \$65 will be required to submit the petition fee in full. Therefore, requirement number (2) has not been met.

The payment of the required petition fee in full is a prerequisite to the filing of a petition to revive under 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)²

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski. Any renewed petition may be submitted by mail³, hand-delivery⁴, or facsimile⁵.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

² "[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. § 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. § 1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee."

³ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

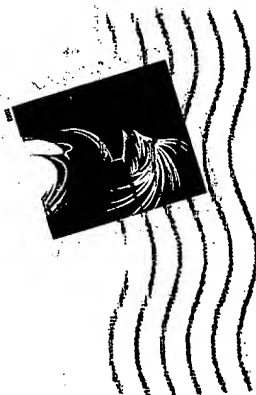
⁴ Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

⁵ (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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